

REMARKS

The Office Action dated October 5, 2005, has been received and carefully considered. Reconsideration of the outstanding rejections in the present application is also respectfully requested based on the following remarks.

I. THE ANTICIPATION REJECTION OF CLAIMS 11-15 AND 21

On page 2 of the Office Action, claims 11-15 and 21 were rejected under 35 U.S.C. § 102(e) as being anticipated by Kesling (U.S. Publication No. 2002/0132575). This rejection is hereby respectfully traversed.

Under 35 U.S.C. § 102, the Patent Office bears the burden of presenting at least a prima facie case of anticipation. In re Sun, 31 USPQ2d 1451, 1453 (Fed. Cir. 1993) (unpublished). Anticipation requires that a prior art reference disclose, either expressly or under the principles of inherency, each and every element of the claimed invention. Id. "In addition, the prior art reference must be enabling." Akzo N.V. v. U.S. International Trade Commission, 808 F.2d 1471, 1479, 1 USPQ2d 1241, 1245 (Fed. Cir. 1986), cert. denied, 482 U.S. 909 (1987). That is, the prior art reference must sufficiently describe the claimed invention so as to have placed the public in possession

of it. In re Donohue, 766 F.2d 531, 533, 226 USPQ 619, 621 (Fed. Cir. 1985). "Such possession is effected if one of ordinary skill in the art could have combined the publication's description of the invention with his own knowledge to make the claimed invention." Id..

Regarding claims 11 and 21, the Examiner asserts that Kesling discloses a method for retransmitting a received radio programming signal (paragraph 0012, and paragraph 0040), comprising the steps of: receiving the signal over a cellular transmission network (paragraph 0048 and paragraph 0076) at a first transceiver station (satellite) configured to output the radio programming signal (program content, music, information, advertisement, etc.) (Fig. 3 number 12 and paragraph 0039 through paragraph 40); and transmitting the signal from the first transceiver station (satellite) to at least a second transceiver station (radio receiver 20) (fig. 3 number 20 and paragraph 0040) configured to output the radio programming signal on a flash card media link (1140) to be read by reader connected to a computer (1150) (paragraph 0041).

Applicant respectfully submits, however, that Kesling does not teach or suggest the step of "receiving the signal over a **cellular transmission network** at a first transceiver station

configured to output the radio programming signal," as expressly recited in claim 11. Moreover, Applicant respectfully submits that Kesling does not teach or suggest a cellular transmission network **that transmits a radio programming signal**. The portions of Kesling referenced by the Examiner as supporting the rejection merely disclose using a **wireless transmission link** to transfer "program identifiers" and/or geographic data -- not a radio programming signal -- between a receiver 20 and computer 1150:

[0048] In still another or combination embodiment, radio 20 includes a high power wireless transmitter 700 (shown in FIG. 4), which preferably operates using technology, protocols and electromagnetic spectrum allotted to, for example, well-known text paging systems (e.g., the well-known Mobitex network operated by Cingular Wireless, Atlanta, Ga.) or short messaging systems embodied in cellular telephones networks. **Thus, in this case, media link 1140 of FIG. 3 is replaced by a wireless transmission link.**

See Keling, ¶0048 (emphasis added).

* * * * *

[0076] For a more accurate determination of geographic characteristics, if the wireless link embodiment described above is implemented, updated geographic information can be gleaned from the cellular system through which wireless communication is taking place. Similarly, radio 20 may also incorporate global positioning system (GPS) equipment, which can provide geographic data back to the listing of listeners/users (e.g. via a cellular system), thereby resulting in fully updated and current geographic data for

effecting accurate and effective targeted advertising or programming.

See Kesling, ¶0076.

Applicant respectfully submits that Figure 3 of Kesling clearly illustrates that media link 1140 connects receiver 20 to computer 1150. Further, Kesling discloses that media link 1140 is used to capture "program identifiers" which are used to obtain additional information related to a program segment of a broadcast, not to transmit or retransmit radio programming signals over cellular transmission network, as required by claim

11:

[0041] At any given time, receiver 20 plays any one of a plurality of selections received on the plurality of channels that are selectable by the user via a user interface 1000 (shown in FIG. 5). User interface 1000 also allows the receiver to receive input from a listener/user indicating an interest in a given selection. In a preferred embodiment, the user interface includes one or more buttons that can be pressed to record, select or tag the program identifier associated with the selection of interest. ***In one embodiment, a removable memory "flash card" media link 1140 is used to capture the selected program identifiers.*** In an alternative embodiment, radio 20 includes a voice recognition system (not shown) or other suitable means for receiving input from a listener/user. In accordance with the present teachings, when the user desires to receive information or goods, or provide feedback in regard to his selection(s), the user removes media link 1140 from receiver 20 and inserts media link 1140 into a suitable reader (not shown) connected to a computer 1150. Computer 1150 is preferably equipped with a modem by which the user is able to access a second

network 1160 and thereby achieve a connection to a web site or central, private distribution hub 1170 designed and configured in accordance with the present teachings.

See Kesling, ¶0041.

Applicant respectfully submits that this falls in line with the overall functionality of Kesling, namely a system and method for implementing mobile commerce:

Applicant respectfully submits that Kesling discloses a system for and method of implementing mobile commerce in a satellite radio broadcasting system. A unique program identifier is associated with each program segment of a broadcast. When a listener hears a program segment of interest, the listener causes the associated program identifier to be captured and thereafter to be transferred to a central location or hub. The transferring operation can be accomplished manually, via a media link or via a wireless network. Upon receipt of the program identifier at the central hub, the program identifier is used to determine information about the listener, obtain additional information regarding the program segment associated with the program identifier for the listener and/or initiate an e-commerce transaction involving the listener and/or other parties including merchandisers and advertisers.

See Kesling, Abstract.

Thus, Applicant respectfully submits that while Kesling discloses the capturing of "program identifiers" using media link 1140, Kesling does not teach or suggest using media link 1140 - or any other feature or functionality - to "receiv[e] the signal over a cellular transmission network at a first

transceiver station configured to output the radio programming signal," as expressly recited in independent claim 11. Accordingly, Applicant respectfully submits that independent claim 11 is allowable over the cited references.

Claims 12-15 and 21 are dependent upon independent claim 11. Thus, since independent claim 11 should be allowable as discussed above, claims 12-15 and 21 should also be allowable at least by virtue of their dependency on independent claim 11. Moreover, these claims recite additional features which are not claimed, disclosed, or even suggested by the cited references taken either alone or in combination. For example, claim 21 recites "wherein the radio programming signal is transmitted to the cellular transmission network by a radio programming source through a data network or gateway." Applicant respectfully submits that Kesling does not teach or suggest any such feature or functionality. As set forth above, the only reference in Kesling to wireless transmission concerns the use of such networks for capturing selected program identifiers associated with program segments that are of interest to the user, rather than the actual transmission of radio programming signals as recited in claim 11.¹

¹ All embodiments disclosed by Kesling require the

In view of the foregoing, it is respectfully requested that the aforementioned anticipation rejection of claims 11-15 and 21 be withdrawn.

II. THE OBVIOUSNESS REJECTION OF CLAIMS 1, 5-8, 22 AND 23

On page 3 of the Office Action, claims 1, 5-8, 22 and 23 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Lee (U.S. Patent No. 6,728,531) in view of Timm (U.S. Patent No. 4,435,845). On page 5 of the Office Action, claims 2-4 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Lee in view of Timm and further in view of Sklar (U.S. Patent No. 5,990,928). On page 6 of the Office Action, claim 9 was rejected under 35 U.S.C. § 103(a) as being unpatentable over Lee, in view of Timm and Sklar, and further in view of Mauro, II (U.S. Publication No. 2002/0103003). On page 6 of the Office Action, claim 10 was rejected under 35 U.S.C. § 103(a) as being unpatentable over Lee, in view of Timm and Sklar, and further in view of Heilferich (U.S. Patent No. 6,462,646). On page 7 of the Office Action, claims 16-19, 24 and 25 were rejected under

transmission of radio programming signals through a satellite transmission network. See, e.g., Abstract (A system and method of implementing mobile commerce in a "**satellite radio programming broadcasting system**").; see also item 12 in Figures 1-4.

35 U.S.C. § 103(a) as being unpatentable over Kesling in view of Timm. This rejection is hereby respectfully traversed.

As stated in MPEP § 2143, to establish a prima facie case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations.

Regarding claims 1, the Examiner asserts -- and Applicant agrees -- that Lee does not disclose transmission means for transmitting the radio programming signal to a second receiver configured to deliver an audible portion of the radio programming signal and retransmit the radio programming signal. Regarding claim 16, the Examiner asserts -- and Applicant agrees -- that Kesling does not disclose transmitting the radio programming signal to at least one device configured to deliver the radio programming signal and retransmit the radio programming signal. However, in both cases, the Examiner asserts that "Timm teaches an automobile radio-cassette unit for

FM radio stereo reception which provides broadcast announcements to a speaker 14 and earphones (KH1 and KH2) (col. 4, line 54 through col. 5, line 36), the earphone are infrared wireless connection to the automobile radio cassette unite (col. 5, lines 56 through col. 5, line 2)." The Examiner further asserts that Sklar teaches a moving receiver capable of receiving a broadcast signal and distribute (retransmit) the broadcast signal to passengers seat stations or terminals (abstract, col. 2, lines 40-50 and col. 7, line 10 through col. 8, line 16). Therefore, the Examiner submits, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Lee's vehicle radio with transmission means for transmitting the radio programming signal to a second receiver configured to deliver an audible portion of the radio programming signal in order for the multimedia device to allow passengers of the vehicle to receive AM/FM music, video and television in private, so that additional passengers are not disturbed, as taught by Timm and Sklar. The Examiner also alleges that it would have been obvious to one of ordinary skill in the art at the time the invention was made to provide Kesling with transmitting the radio programming signal to at least one device configured to deliver the radio programming signal to at

least one device configured to deliver the radio programming signal and retransmit the radio programming in order for the system to broadcast a program content to the radio receiver within the vehicle to a passenger entertainment console and headset so that the passenger could listen to the program content in private, so that other passengers within the vehicle are not disturbed.

However, Applicant respectfully submits that Sklar does not teach or suggest "transmission means for transmitting the radio programming signal to a second receiver configured to: (1) deliver an audible portion of the radio programming signal, and (2) retransmit the radio programming signal." Rather, Applicant respectfully submits that Sklar merely teaches a receiver that distributes programming to passengers on an aircraft, not a feature or functionality for transmitting a radio programming signal to a second receiver configured to deliver an audible portion of the radio programming signal and retransmit the radio programming signal:

The present invention is embodied in a method and apparatus for receiving broadcast entertainment transmissions at a moving receiver station, wherein the broadcast can originate from several different program providers. Preferably, the moving receiver station is embodied in an in-flight aircraft entertainment system that incorporates a satellite receiver station and distribution system. The in-

flight receiver station receives television signals broadcast from a satellite, and distributes the received television programming to passengers on the aircraft.

See Sklar, Col. 2, lines 40-49

Further, Applicant respectfully submits that Timm is similarly deficient and merely discloses an "automobile radio-cassette combination which includes a special announcement decoder . . . to decode traffic announcements and the like." See Timm, Abstract.

Accordingly, Applicant respectfully submits that neither Timm nor Sklar - alone or in combination - teach or suggest "transmission means for transmitting the radio programming signal to a second receiver configured to: (1) deliver an audible portion of the radio programming signal, and (2) retransmit the radio programming signal," as expressly recited in independent claims 1 and 16. Among other things, Timm and Sklar, for example, fail to teach or suggest the retransmission of the radio programming signals, as required by independent claims 1 and 16.

Moreover, Applicant respectfully submits that one of ordinary skill in the art would not be motivated to combine Lee/Kesling, Timm and/or Sklar to achieve the claimed systems and methods. First, Applicant respectfully submits that

Lee/Kesling, Timm and Sklar do not, as a whole, teach or suggest the *desirability*, and thus the obviousness, of making the combination. Kesling, for example, relates to a system and method for mobile commerce, and thus would not benefit from incorporating Timm's automobile radio and tape cassette switching apparatus, and/or Sklar's method and apparatus for receiving broadcast entertainment transmissions at a moving receiver station. Lee's method and apparatus for remotely configuring a wireless communication device also fails to teach or suggest the desirability of the proposed combination.

Second, even if the three references were combined, Applicant respectfully submits that they would not achieve the specific systems and methods recited in independent claims 1 and 16. Accordingly, Applicant respectfully submits that independent claims 1 and 16 are allowable over the cited references.

Claims 2-10 and 17-20 are dependent upon independent claim 1 or 16. Thus, since independent claim 1 and 16 should be allowable as discussed above, claims 2-10 and 17-20 should also be allowable at least by virtue of their dependency on independent claim 1 or 16. Moreover, these claims recite additional features which are not claimed, disclosed, or even suggested by the cited references taken either alone or in

combination. For example, claim 2 recites the receiver of claim 1 "wherein the processor means comprises an RF module for processing and re-transmitting the radio broadcast signal." Applicant respectfully submits that none of the cited references, alone or in combination, teach or suggest the receiver of claim 1 wherein the processor means comprises an RF module for processing and re-transmitting the radio broadcast signal.

In view of the foregoing, it is respectfully requested that the aforementioned obviousness rejection of claims 1, 5-8, 22 and 23 be withdrawn.

III. CONCLUSION

In view of the foregoing, it is respectfully submitted that the present application is in condition for allowance, and an early indication of the same is courteously solicited. The Examiner is respectfully requested to contact the undersigned by telephone at the below listed telephone number, in order to expedite resolution of any issues and to expedite passage of the present application to issue, if any comments, questions, or suggestions arise in connection with the present application.

Patent Application
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Client Reference No.: 13496ROUS01U

To the extent necessary, a petition for an extension of time under 37 CFR § 1.136 is hereby made.

Please charge any shortage in fees due in connection with the filing of this paper, including extension of time fees, to Deposit Account No. 50-0206, and please credit any excess fees to the same deposit account.

Respectfully submitted,

Hunton & Williams LLP

By: 

Thomas E. Anderson
Registration No. 37,063

TEA/OAF/dja

Hunton & Williams LLP
1900 K Street, N.W.
Washington, D.C. 20006-1109
Telephone: (202) 955-1500
Facsimile: (202) 778-2201

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